

ESTTA Tracking number: **ESTTA36086**

Filing date: **06/17/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Mock, Inc.
Granted to Date of previous extension	06/18/2005
Address	3013 Thomas Street Memphis, TN 38127 UNITED STATES

Attorney information	Andrew D. Dorisio King & Schickli, PLLC 247 N. Broadway Lexington, KY 40507 UNITED STATES andrew@iplaw1.net Phone:859.252.0889
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Applicant Information

Application No	76486306	Publication date	04/19/2005
Opposition Filing Date	06/17/2005	Opposition Period Ends	06/18/2005
Applicant	Qualitest USA LC 3706 N. Ocean Blvd., #200 Fort Lauderdale, FL 33308		

	UNITED STATES
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Goods/Services Affected by Opposition

Class 009. First Use: 19990228First Use In Commerce: 19990228 All goods and services in the class are opposed, namely: Mechanical testing equipment, namely hardness testers, tensile testers, impact testers and strength testers, used for measuring the hardness, tensile strength, compression strength and impact resistance of materials, namely metals, plastics, textiles, rubber, concrete, cement, paper and cardboard

Related Proceedings	Mock, Inc. v. Qualitest USA LC, U.S. Dist. Ct. for the Western District of Tennessee, Civ. Action No. 05-2033-B/P
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Attachments	Notice of Opposition.pdf (7 pages)
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Signature	/Andrew D. Dorisio/
Name	Andrew D. Dorisio
Date	06/17/2005

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration Application Serial No. 76/486,306
Filed January 31, 2003
For the mark QUALITEST and Design
Published in the *Official Gazette* on April 19, 2005

MOCK, INC.	:	
d/b/a HI-SPEED ELECTRICAL CO.	:	
	:	
Opposer,	:	
v.	:	OPPOSITION NO. _____
	:	
QUALITEST USA LC	:	
	:	
Applicant.	:	

NOTICE OF OPPOSITION

Mock, Inc., d/b/a Hi-Speed Electrical Co., a corporation organized under the laws of Tennessee, having a place of business at 3013 Thomas Street, Memphis, Tennessee, 38127 (“Opposer”), believes that it will be damaged by registration of the mark QUALITEST and Design (“Applicant’s Mark”) of U.S. Reg. App. Ser. No. 76/486,306 (the “306 Application”), and hereby opposes the same. The time to oppose was extended to June 18, 2005 by a timely request for an extension of time to file this opposition, granted by this Board on April 19, 2005.

As grounds for Opposition, it is alleged that:

1. On information and belief, the Applicant in the ‘306 Application, Qualitest USA LC (“Applicant”) is a Florida limited liability company, having a place of business at

3706 N. Ocean Boulevard, #200, Fort Lauderdale, Florida, 33308.

2. On January 31, 2003, Applicant filed the '306 Application seeking to register the Applicant's Mark to identify "mechanical testing equipment, namely hardness testers, tensile testers, impact testers and strength testers, used for measuring the hardness, tensile strength, compression strength and impact resistance of materials, namely metals, plastics, textiles, rubber, concrete, cement, paper and cardboard" in International Class 9. The '306 Application recites a date of first use anywhere and first use in commerce of February 28, 1999.

3. Opposer is the owner of U.S. Reg. No. 1,811,327 (the '327 Registration) for the mark QUALITEST to identify "predictive maintenance machinery testing service; namely, testing, monitoring and analyzing the operation of electric motors, gearboxes and pump rotary operating equipment, and providing field and shop service to machinery when required" in International Class 42. Attached hereto as Exhibit A, and herein incorporated by reference, is a true and correct copy of a printout from the U.S. Patent and Trademark Office's Trademark Applications and Registrations Retrieval (TARR) database showing the '327 Registration having a registration date of December 14, 1993, and evincing that the registration is incontestable pursuant to 15 U.S.C. §1065.

4. Since long before the filing date of the '306 Application, and before the date of first use of the Applicant's Mark claimed in the '306 Application, Opposer has registered and continuously used the mark QUALITEST and has not abandoned the same.

5. The goods and services identified by the respective marks of the parties are “related.”

6. Applicant’s Mark for the goods listed in the ‘306 Application consists of or comprises a mark that so resembles Opposer’s QUALITEST mark, which is registered in the U.S. Patent and Trademark Office and has previously been used in the United States and not abandoned, as to be likely to cause confusion, to cause mistake, and to deceive, and therefore should be refused registration pursuant to 15 U.S.C. § 1052(d).

WHEREFORE, Opposer believes that it will be damaged by the registration of Applicant’s Mark, and requests that the opposition be sustained and that registration to Applicant be refused.

The Board is authorized to debit the \$300.00 fee for filing this Notice of Opposition from Deposit Account 11-0978, as well as any other fees deemed necessary.

MOCK, INC.

d/b/a HI-SPEED ELECTRICAL CO.

By: 

Andrew D. Dorisio
Registration No. 41,713
KING & SCHICKLI, PLLC
247 North Broadway
Lexington, KY 40507-1058
Attorney for Opposer

EXHIBIT A

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2005-06-15 10:47:03 ET

Serial Number: 74380959

Registration Number: 1811327

Mark (words only): QUALITEST

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2003-11-24

Filing Date: 1993-04-19

Transformed into a National Application: No

Registration Date: 1993-12-14

Register: Principal

Law Office Assigned: LAW OFFICE 12

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2003-11-25

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Mock, Inc.

Address:

Mock, Inc.
3013 Thomas Street
Memphis, TN 38127
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Tennessee

GOODS AND/OR SERVICES

International Class: 042

predictive maintenance machinery testing service; namely, testing, monitoring and analyzing the

operation of electric motors, gearboxes and pump rotary operating equipment, and providing field and shop service to machinery when required

First Use Date: 1993-04-07

First Use in Commerce Date: 1993-04-07

Basis: 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-11-24 - First renewal 10 year

2003-11-24 - Section 8 (10-year) accepted/ Section 9 granted

2003-12-14 - Post Registration action correction

2003-09-22 - Combined Section 8 (10-year)/Section 9 filed

2003-09-22 - TEAS Section 8 & 9 Received

1999-07-20 - Section 8 (6-year) accepted & Section 15 acknowledged

1999-02-16 - Section 8 (6-year) and Section 15 Filed

1993-12-14 - Registered - Principal Register

1993-09-21 - Published for opposition

1993-08-20 - Notice of publication

1993-07-19 - Approved for Pub - Principal Register (Initial exam)

1993-07-16 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

WARREN D. SCHICKLI
KING AND SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON, KY 40507

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